

The 7th March, 1995

No. 14/13/87-6 Lab/259.—In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, I, Faridabad, in respect of the dispute between the workman and the management of M/s. Bumpy Sales Corporation, *versus* Ram Lubhaya Gupta.

BEFORE SHRI M. L. PRUTHI, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, FARIDABAD

Ref. No. 4 of 1992

In the matter of Industrial Dispute

*between*

SHRI RAM LUBHAYA GUPTA, C/O AITUC OFFICE, MARKET NO. 1, NIT, FARIDABAD

.. *Workman*

*and*

M/S. BUMPY SALES CORPORATION, 1-F-41, B.P., NIT, FARIDABAD

.. *Management*

*Present:*

Shri Darshan Singh, authorised representative for the workman.

Shri R. C. Sharma, authorised representative for the management.

#### AWARD

Under the provisions of section 10(1)(c) of Industrial Disputes Act, 1947, the Government of Haryana have, *vide* Endst. No. ID/FD/452-88-93, dated 30th December, 1991, referred the following dispute between the parties above mentioned for adjudication.

Whether termination of services of Shri Ram Lubhaya is legal and justified. If not, to what relief he is entitled ?

2. The case of the workman is that he had been working as Assistant Accountant-cum-Store Keeper since 11th August, 1989 and was in receipt of monthly wages of Rs. 1300/-. His services were terminated illegally and without any notice, or charge sheet on 11th June, 1991. He has, therefore, claimed reinstatement with continuity of services and full back wages.

3. The stand taken by the management, on the other hand is that the workman had joined service not in August, 1989, but in December, 1990 and had himself left service on 11th June, 1991. According to Management, the workman himself used to maintain record and had taken away the same with him while leaving service. Further stand of the Management is that its establishment is covered under Shops and Commercial Establishments Act and for that matter the workman cannot claim reinstatement. At the most he can claim one month's notice pay under section 22 of Shops and Commercial Establishments Act and in case it is proved that an employee was removed from service without reasonable cause then he can be awarded compensation equivalent to two months salary.

4. In the re-joinder, pleas taken in the demand notice have been re-iterated while those in the written statement controverted.

5. On the pleadings of the parties following issues were framed on 7th May, 1992.

(1) As per reference.

(2) Whether the Management is covered under the shops Act.

6. I have heard A.R. for the parties and perused the facts on record. My findings on both the issues with reasons therefor are as under:—

Issue No. 2 :

7. Chander Parkash examined as MW1 did not say a word that the Management was covered under Shops and Commercial Establishments Act. In his cross-examination, he had placed on record blank forms

Mark A.B.C. and D, which were made use for supplying information required of the establishment required under Shops Act. The forms being blank do not promote the case of the management in any manner. Therefore, there being not an iota of evidence that the Management is covered under Punjab Shops and Commercial Establishments Act the issue is decided against the Management and in favour of the workman.

**Issue No. 1:**

8. After returning a finding that the management is not covered under Punjab and Shops Commercial Establishments Act it has to be seen now whether the termination of the services of the workman was legal and justified or not.

9. The stand of the management is that the workman joined its service in December, 1990 and left the same of his own accord on 11th June, 1991. Chander Parkash examined as MW1 stated that no record of service and wages of the workman was available because the workman who used to maintain the same himself had taken it away while leaving service. This stand of the management cannot be accepted because if there was any truth in it, the management would have got a case of theft registered against the workman. On the other hand Ex. W1 issued by the management in favour of the workman which is of 16th December, 1989 provides example proof that on 16th December, 1989 the workman was in the employment of the management. So, this document coupled with the statement made on oath by the workman examined as WW1 proves it beyond doubt that the workman had been in the employment of the management since 11th August, 1989 and continued to be so till 11th June, 1991.

10. In the written statement it is mentioned that the workman had left service on 11th June, 1991 but in his examination as MW1 Chander Parkash stated that the workman had left service in May, 1991. Attendance Register and Wages Register were the best pieces of evidence from which the management could prove its stands. So, in the absence of documentary evidence coupled with discrepant stand of the Management and assertions made by the workman, it has to be taken that the workman had been in the service of the Management from 11th August, 1989 to 11th June, 1991, i.e. for more than 240 days and the termination of his services without notice, charge sheet and compensation is illegal and unjustified in result he is entitled to be reinstated with continuity of service and full back wages.

N. L. PRUTHI,

The 25th January, 1995.

Presiding Officer,  
Industrial Tribunal-cum-Labour  
Court-I, Faridabad.

Endorsement No. 311, dated the 25th January, 1995.

A copy with three spare copies, is forwarded, to the to the Financial Commissioner and Secretary to Government of Haryana, Labour and Employment Department, Chandigarh.

N. L. PRUTHI,

Presiding Officer,  
Industrial Tribunal-cum-Labour Court-I,  
Faridabad.

The 16th February, 1995

**No. 14/13/87-6Lab./276.**—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Mohan Spinning Mill, Rohtak *versus* Shri Suraj Bhan.

**BEFORE SHRI P.L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ROHTAK**

**Reference No. 444 of 89**

*between*

**SHRI SURAJ BHAN, S/O SHRI RAM, VILLAGE AND POST OFFICE BALAND, TEHSIL AND DISTRICT ROHTAK**

*versus*

**M/S MOHAN SPINNING MILL, ROHTAK.**

**Present :**

Shri V. S. Singal, A/R, for the workman.

Shri M. Kaushal, A/R, for the management.

## AWARD

1. In exercise of powers conferred by sub-clause (c) of sub-section (1) of Section 10 of the Industrial Dispute Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above, to this court for adjudication, -vide labour department Endorsement No. S. O. V./Rohtak/197-89/36783--88, dated 23rd August, 1989 :-

Whether the termination of services of Sh. Surajbhan, is justified and in order ? If not, to what relief he is entitled ?

2. The applicant went to the office of Labour Commissioner, Haryana, Chandigarh with the demand notice and who referred the dispute to this court for decision.

3. Notice was issued to both the parties. The workman had filed the claim statement to the effect that workman was working with the employer since 1962 and the service of the workman was regularised on 1st May, 1969 as a Head Watchman and has not given any chance of any complained during his service period. The management terminated the service of the workman on 28th February, 1989 without assigning any reason or reasonable cause. The workman was appointed on permanent post and has completed more than 240 days in a calendar year, therefore, the workman is entitled to be heard before giving any shot of punishment to him. Such type of termination is also amounts unfair labour practices. Therefore, the above said termination is absolutely illegal, unwarranted, unconstitutional and against the principle of natural justice. At the time of termination no notice was given to the workman by the management. No charge-sheet was issued to the workman and no enquiry was held by the management and no notice was sent to the Government the prescribed form and no retrenchment compensation was paid to the workman. Therefore the management have contravene section 25-F of the I.D. Act and the mandatory provisions of chapter 5-A of the Industrial Dispute Act were not complied with. Some junior persons are also working in the office of the management on the same post and the management have not adopted the procedure first come first go in this way the management have contravene section 25 G & H of the Industrial Dispute Act. The prayer was made that the workman be reinstated with full back wages along with continuity of service and also along with statutory benefits.

4. The management had filed the written statement that applicant was working in the watchward department as a security guard in the company w. e. f. 1st May, 1969. On account of the illegal activities resorted by the workers the management was compelled to suspend the manufacturing process from 10th February, 1989 to 9th May, 1989. The applicant whose services were urgently required at the gate during this crucial and peculiar circumstances started absenting from duty on 28th February, 1989 without any notice or information. He continued to remain absent from the duty for more than 10 days without any notice or cause or information and thereby he abandoned the employment of his own. Under Section 2-A of the I.D. Act an industrial disputes can be raised by a person against whom there is an action on the part of the employer and that action is by way of dismissal discharge retrenchment or termination otherwise. Whereas there is no action on the part of the employer in the present case but it is an action on the part of the workman when he started absenting from the duties of his own and automatically he lost his lien in terms of the Industrial Employment Standing Orders Act, 1946.

5. The reference order is regarding the termination whereas it is a case of self-abandonment of service by the applicant. No cause of action accrued in favour of the respondent nor any action was initiated by the management on 28th February, 1989; therefore the reference order is a premature one, because the services of the workman were never terminated on 28th February, 1989. Which is denied if the workman was working since 1962. It is pleaded that he was working in the watch and ward department as a security guard since 1st May, 1969. His last salary drawn was Rs. 449.08 basic plus 346.75 DA, totalling Rs. 795.36. It is admitted that no charge-sheet was issued to the applicant nor any enquiry was conducted as it is not case of misconducts.

6. The applicant is gainfully employed since he left the service of the company and hence reference be awarded in favour of the respondent and against the applicant.

7. Replication was filed. On the pleading of the parties the following issues were framed :-

- (1) As per terms of reference.
- (2) Whether the reference is not maintainable as alleged ?
- (3) Whether this court has no jurisdiction ?
- (4) Whether the reference is nullity and bad in law as alleged ?
- (5) Whether the application was no cause of action as alleged ?

(6) Whether the applicant is gainfully employed since he left the services as alleged ?

(7) Relief.

8. My findings on the above issues framed are as under :—

#### Issue No. 1

The workman has examined Sh. Ranbir Singh, Clerk, of L. I.-II, Rohtak, who proved the moving of the application by the workman to the Labour Officer, copy of which is Ex. WW-1/1 and the entry register showing the receipt the copy of which is Ex. WW-1/2, the notice to the parties the copy of which is Ex. WW-1/3 and WW-2 is Shri Surajbhan, applicant and thereafter evidence was closed.

9. The management has examined Sh. Benami Singh Schrawat as MW-1 and evidence thereafter was closed.

10. The contention of the learned A/R for the workman is that as the workman was employed as permanent employees hence he can not be held in this enquiry, or retrenchment notice or retrenchment pay to the workman, was not made. The statement of workman has come on the record and who made the statement that he was posted w.e.f. 1st May, 1969 with the management and he was removed on 28th February, 1989 of the management. The statement of Ranbir Singh, Clerk of L.I.-II, Rohtak, who made the statement that Suraj Bhan has applied to the Labour Inspector. His evidence is on different point, MW-1 is Sh. Benami Singh Schrawat who made the statement that workman was working in the respondent management w.e.f. 1st May, 1969 and he was removed from 10th February, 1989 on illegal activities.

11. It is thus, proved that workman was serving with the management for the last 20 years before the service of termination notice on him. Now the question arose before me for decision is whether the management could remove him from the job without making compliance of section 25-F of the I.D. Act. The case of the management is that the management had not retrenched the workman but the workman himself had not appeared in the management factory for about 3 months. And if the workman does not appear in the management for about 3 months without termination as to why he is on leave why he is on appearing and if it is proved that he was involved in illegal activities, the management could terminate the service.

12. The learned A/R for the management made the forceful contention that workman was required to have approached the respondent management for taking him into the job but instead of he had gone to the Labour Inspector if the management, somehow, refused workman from allowing him to enter into the factory the workman was to file the application before the Labour Inspector. Finding no alternative the workman in this case also had gone to the Labour Inspector and filed the application. The application is moved by workman Ex. WW-1/1. There are notes of the Labour Inspector on the back of the application. Ranbir Singh Clerk of the Labour Inspector Office which has been examined as WW-8 made the statement that application was moved by the workman to Labour Inspector which was entered in the register maintained by the labour office. On cross examination he admitted that the writing on the back of the Ex. WW-1/3 is not of his hand and he could not tell as to where hand that writing is. He also made the statement that there is no signing of any person of Circle-I on Ex. WW-1/1 he also made the statement that no notice was sent the management except Ex. WW-1/3. He denied the suggestion that no notice was sent to the management and they have made false entries in the register he denied the suggestion that he had not brought the despatch register because there was no entry in the register of filing by of applicant. He was also suggested that applicant had not filed any complaint which is Ex. WW-1/1, dated 7th March, 1989.

13. From the evidence of Ranbir, it is proved the application is moved by the applicant to the Labour Office. There had not been moved any such application so they would have been suggestion that they have prepared false application when the entry are made on the application Ex. WW-1/3. It is true that the witness could not tell as to who had written in the back of the application and also deposed that one of the order was not signed by any person but does not mean that other two orders passed on the application were not passed any person. Ranbir also could not identified the writing of every person.

14. It is hereby proved that application was moved by the workman to the management. I find that force for the submission that workman had gone to the factory to join the duty but he had not joined the duty as not allowed and he had to apply within 10 days to the labour office so that he could join the duty. When the worker was on duty since 1st May, 1969, and there is no reason subscribed as to how the workman could not come to the factory particularly in view of the circumstance that when the workman filed the application before the labour office, it is presumable that workman was always ready to work in the factory but the management did not allow him to enter is to the factory.

15. The contention made by the management is that when the workman services were not terminated and the workman had himself left the job so there was no need for the factory to comply with the provision made

under section 25 of the I.D. Act. Only the question remains to be solved whether the workman had himself left the job or the management had terminated his services. In case of termination, as the compliance with the provision made under section 25 of the I.D. Act has not been complied with so the termination does not stand in the way and the worker is entitled to the claim. Only question is whether the workman himself had not gone by the factory to join the job assigned to him. The calling of the management after 3 months to the workman is nothing but a fictitious effort to make the case of abandonment of the job by the workman himself. The management side had not referred to any letter but the workman is referring to the letter written by the management after 3 months. This is not in dispute because learned A/R for the management has not referred to any letter sent by the management.

16. The learned A/R for the management made the submission that reference in question is regarding the termination of services but whereas the management had never terminated the services of the workman, and the workman is arguing the case regarding the termination of services, which is not pleaded in demand notice. When the workman is stating that he went to join the duty but he was not allowed to join the duty and it amounts to termination of services in question.

17. For my said findings on the referred point I decide that the reference is maintainable and I accept the claim statement, and order the respondent-management to take the workman in service and I such decide the Issue No. 1.

#### Issue Nos. 2 to 6 :

These issues are not pressed in arguments and I decide these issues against the management.

#### Relief :

For my finding on the above issues I accept the claim petition and order his reinstatement with continuity of service with the management and with 75% back wages. However, the parties are left to bear their own costs.

The 8th December, 1993.

P. L. KHANDUJA,

Presiding Officer,  
Industrial Tribunal/Labour Court,  
Rohtak.

Endorsement No. 2974, dated 28th December, 1993.

Copies are forwarded to the following :-

1. Labour Commissioner, Haryana, Chandigarh.
2. Labour Officer, Rohtak.

P. L. KHANDUJA,

Presiding Officer,  
Industrial Tribunal/Labour Court,  
Rohtak.

**No. 14/13/87-6Lab./248.**—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-II, Faridabad in respect of the dispute between the workman and the management of M/s Rubber Vikas Udyog (P) Ltd, Plot No. 60, Sector 25, Ballabgarh (Faridabad) *versus* Fa bir Kumar.

IN THE COURT OF SHRI U. B. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-II, FARIDABAD

App. No. 91/93

SHRI BALBIR KUMAR, C/O SHRI S. C. SHRIVASTVA, 41, PURANI CHUNGI,  
FARIDABAD OLD

.. Applicant.

*versus*

M/S RUBBER VIKAS UDYOG (P) LTD, LPOT No. 60, SECTOR-25, BALLABGARH  
(FARIDABAD)

.. Respondent.

#### Present :

Sh. Kalewar Mishra, for the workman.  
Sh. K. P. Aggarwal, for the management.

## AWARD

Balbir Singh, an employee of the respondent submitted application dated 22nd January, 1990 under section 33-A of the Industrial Disputes Act (for short called 'the Act') praying therein for the grant of appropriate relief.

2. Briefly stated the case of the applicant is that he was permanent employee of the respondent and was directly concerned with the Industrial Disputes referred to the present Tribunal by the Government and registered as reference No. 527/87. The applicant was an active member of the union and so he had been pursuing several causes of action/disputes pending before various courts and authorities against the respondent. In order of pressmise the applicant for coming to terms the respondent started harresing him. The applicant had been working as packing incharge in the store department for the last for more than 5 years without any complaint but the respondent prompted with *mala fide* intention transferred him to late department as helper and allotted the job which was being done by him, to an outside agency. He was not provided with any job in the latex department and was wrongly recorded in his attendance card that he had refused to work. His transfer reduction in rank and pay and shifting of work to outside agency effected during the pendency of dispute No. 527/87 is in contravention of Section 33 of the Act. Hence the application.

3. The respondent submitted written statement starting therein that the application is not maintainable as the respondent had not violated the provision of Secion 33 of the Act. The applicant is not a protected workman as he had never been the office bearer of the union. The applicant had been working in the store as helper. Five helpers including the applicant had become surplus and instead of effecting retrenchment the respondent transferred them to various departments inside the factory to work as helpers as per provision of the Certified Standing Orders. The action of the respondent of transferring the applicant is legal and justified and as such his application be dismissed.

4. The applicant submitted rejoinder re-asserting the previous averments and denying the averments of the respondents.

5. On the pleadings of the parties, the following issues was framed.

1. Whether there has been alteration in the service conditions of the applicant during the pendency of Reference No. 527/87 ?

6. Both the sides have led evidence.

7. I have heard the authorised representatives of both the sides and have also gone through the file carefully. My findings on the aforesaid issue are as under :—

**Issue No. 1 :**

8. The applicant examined himself on oath and deposed the facts mentioned in his application referred to above. He also placed on file copy of application Ex.W-1, copy of attendance card Ex. W-2 showing his designation as packing incharge and copies of letters showing his nature of duties Ex. W-3 and Ex.W-4. He however, admitted in his cross-examination that he had not made complaint in writing to any officer or the respondent that he was not being allowed to do work in the new place of his posting. He also admitted that he had no proof of the fact that he had been an active member of the union. He further admitted that he was working as a ordinary worker in the store department before his transfer and he was transferred along with other four workers as a ordinary worker.

9. On the other hand, two witnesses have been examined by the respondent. MW-1 Satish Ahuja deposed that he was appointed as Enquiry Officer through letter Ex. M-1 to enquire into the charges against the workman, and three other workmen and he had conducted the enquiry proceedings as contained in Ex. M-2 and then submitted his report. MW-2 Ravi Kiran Jain, Managing Director of the respondent deposed that the present applicant and his three colleagues were transferred,—*vide* order dated 30th December, 1989 Ex. M-1. He further stated that the applicant was transferred as helper from store department to latex department as per provision in the Certified Standings Orders of the company without making any sort of reduction in his wages. The applicant had made protest and had not joined duty in the latex department and as such the disciplinary proceedings were initiated against him and then finally discharge from service.

10. On the basis of aforesaid evidence, it has been submitted on behalf of the applicant that it is admitted by the respondent that reference No. 527/87 relating to the general demand was pending before the Tribunal. The respondent has not led any evidence to prove that the applicant was transferred from

store department to latex department due to shortage of work in the store department due to go slow policy adopted by the workman. It is proved from the challan mark 'C' placed on file by the applicant that the respondent had been getting the work done from a contractor Micky Rubber. Besides this the respondent should have laid off the staff posted in the store department even if there was shortage of work. There was absolutely no justification to transfer the applicant and three others from the store department to other departments on the ground of alleged shortage of work. The impugned action of the respondent of transferring the present applicant from store department to latex department is thus, colourable exercise of the powers vested in the respondent. It amounts to unfair labour practice falling under clause 5(b) and clauses 6 and 7 of Fifth Schedule appended with the Act. Thus, the impugned order be quashed.

11. To support the aforesaid contention the authorised representative of the applicant has placed reliance on the decision in the cases reported as *Bhaskaran Nair versus Management Premier Tyres* and another 1975 LLJ 101 in which it was held that the petitioner/workman was certainly interested in the earlier dispute as it was a collective dispute on behalf of all the workmen in general. Reliance has also been placed on the decision in the case between *Standard Vacuum Oil Company Ltd., Calcutta and their employees* 1954 LLJ 355 in which it was held that the liability to be transferred from one place to another by the employer is an implied condition of service.

12. On the other hand, it has been urged on behalf of the respondent that the applicant was transferred from store department to latex department in exercise of the powers vested in the respondent in clause 26 of the Certified Standings Orders. It is not a change in service's condition as per fourth Schedule of the Act. Thus, the provision of section 33 of the Act has not been violated which is a very foundation of the complaint under section 33-A of the Act. Consequently, the application is not maintainable. To support this plea reliance has been placed on certain decided cases to which the reference shall be made hereafter.

13. In the case of *Mahendra Singh Dhantwal versus Hindustan Motors Ltd. and others* 1977 SCC (L & S) 20 the Hon'ble apex court of the land held that the foundation of the jurisdiction of the Tribunal to entertain a complaint under section 33-A is the contravention of section 33 of the Act. The Hon'ble Supreme Court in *Bhavnagar Municipality versus Alibhai, Karimbhai* 1977 (II) LLN 1 laid down that in order to attract section 33 (1) (a) of the Industrial Disputes Act, 1947 the following features must be present :—

- (1) There is a proceeding in respect of an Industrial dispute pending before the Tribunal.
- (2) Conditions of service of the workman applicable immediately before the commencement of the Tribunal proceedings are altered.
- (3) The alteration of the conditions of service is in regard to a matter connected with the pending industrial dispute.
- (4) The workmen whose condition of service are altered are concerned in the pending industrial dispute.
- (5) The alteration of the conditions of service is to the prejudice of the workmen.

If any of these conditions is wanting in a given case or is not established, complaint under Section 33-A of the Act shall not be tenable.

14. Examined in the light of aforesaid decisions it is observed that in the instant case only feature No. 1 & 4 are present. The other three features are not present for the reasons hereafter discussed.

15. It is not disputed that a proceeding in respect of Industrial Dispute was pending. Clause 26 of the Certified Standings orders the respondent Co. Ex. M-15 empowers the management to transfer the workmen from one department to another department without affecting the status and pay of the transferee workmen. It is clearly mentioned in the impugned transfer order dated 30th December, 1989 Ex. M-11 that the applicant was being transferred from store department to latex department under the provision of clause 26 of the Certified Standings Orders of the company. The applicant admitted in his cross-examination that he was working as an ordinary workman prior to his transfer in the store department and he was transferred in that very capacity to the latex department. The applicant stated in his examination-in-chief that his pay and status was reduced by the impugned transfer but this fact has been denied by MW-2 Ravi Kiran Jain. The applicant has not led any evidence to support his oral statement as to how his pay or status was reduced by the impugned transfer if he had been working as an ordinary worker prior to his transfer and was also transferred in that capacity. The applicant had also not led any evidence to prove that he was an active member of the union. The applicant admitted that he was not an office bearer of the union. Thus, the applicant could not be taken as a protected workman under the provisions of section 33 (3 & 4) of the Act. There is thus, no basis to hold that the respondent passed the impugned order in colourable exercise of powers as urged by the authorised representative of the applicant. It is, thus, held that the conditions of service of the applicant applicable immediately before the commencement of Tribunal proceedings were not altered by the impugned order of transfer.

17. The perusal of the reference No. 527/87 Ex. W-y shows that the union served demand notice dated 12th February, 1987 containing eight demands but the Government referred three demands for adjudication namely :—

- (1) Whether each workman of the company is entitled to two pairs of uniforms? If so, to what details?
- (2) Whether each workman of the company is entitled two pairs of leather shoes? If so, to what details?
- (3) Whether each workman in the company is entitled to claim a sum of Rs. 20 per month as Washing allowance? If so, to what details?

It is rightly pointed out by the authorised representative of the respondent that transfer of the present workman is not connected with the aforesaid demands. That being so, it is held that the feature No. 3 mentioned above is missing in the present case.

18. So far as the feature No. 5 is concerned it is observed that the present workman is concerned in the pending industrial dispute as per law laid down in the case between Baskiran Nair *versus* Management, Premier Tyres Limited and another 1975 LLJ 108 (Supra)

19. The applicant has not led any evidence to prove as to how the impugned transfer order is to his prejudice. It is clear from the position discussed above that the status and pay of the applicant was not affected by the impugned order of transfer. Thus, it can not be taken that it was passed to victimise the workman. That being so, the law laid down in the case between Standard Vacuum Oil Company Ltd. Calcutta and their employees 1954 LLJ 355 referred to above does not assist the case of the applicant. In result, it is found that feature No. 5 is not present in the instant case.

20. For the reasons recorded above, it is held that the application is devoid of merit and so the same is dismissed. The award is passed accordingly.

U. B. KHANDUJA,

The 10th January, 1995

Presiding Officer,  
Industrial Tribunal-II, Faridabad.

Enst. No. 132, dated 24th January, 1995.

A copy with three spare copies is forwarded to the Financial Commissioner & Secretary to the Government, Haryana, Labour Department, Chandigarh.

U. B. KHANDUJA,

Presiding Officer,  
Industrial Tribunal-II Faridabad.

No. 14/13/87-6Lab./296.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Faridabad in respect of the disputes between the workman and the management of M/s Sonik Electronic Industries, 12/4, Mathura Road, Faridabad *versus* Prabhat Kumar.

BEFORE SHRI N. L. PRUTHI, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT-I, FARIDABAD.

Reference No. 9 of 93

IN THE MATTER OF INDUSTRIAL DISPUTE

*between*

SHRI PRABHAT KUMAR C/O A.I.T.U.C., OFFICE, MET. NO. 1 N.I.T.  
FARIDABAD

.. Workman

*and*

M/S SONIK ELECTRONIC INDUSTRIES, 12/4, MATHURA ROAD.  
FARIDABAD

.. Management

*Present:*

Workman *Ex parte*.

None for the Management.



## AWARD

Under the provisions of section 10 (1) of Industrial Disputes Act, 1947, the Government of Haryana have,—vide Endorsement No. ID/FD/1/132-92/5825—26, dated 30th December, 1992, referred the following dispute between the parties above named for adjudication :—

Whether the termination of services of Shri Prabhat Kumar is legal and justified. If not, to what relief he is entitled ?

2. In this case following orders have been passed on 30th January, 1995:—

“The case has been called thrice. but no one has appeared for the management. It is 1.00p.m. now. The management is thus proceeded *ex parte*. The workman is already *ex parte*. Therefore, when there is no one to pursue the matter, the reference is dismissed in default. In result ‘No Claim Award’ is hereby passed.”

N. L. PRUTHI,

Presiding Officer,

Industrial Tribunal-cum-Labour Court-I,  
Faridabad.

The 30th January, 1995.

Endorsement No. 313, dated the 30th January, 1995.

A copy, with three spare copies, is forwarded to the Commissioner and Secretary to Government, Haryana, Labour Department, Chandigarh.

N. L. PRUTHI,

Presiding Officer,

Industrial Tribunal-cum-Labour Court-I,  
Faridabad.

No. 14/13/87/6Lab./297.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Faridabad in respect of the dispute between the workman and the management of M/s Nauniyal Electroplating, I-F/68, N.I.T, Faridabad *versus* Kamla Devi.

BEFORE SHRI N. L. PRUTHI, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, FARIDABAD

Reference No. 46 of 92

IN THE MATTER OF INDUSTRIAL DISPUTE

*between*

SHRIMATI KAMLA DEVI W/O SHRI KASTURI LAL, R/O C-265,  
DABUA COLONY, FARIDABAD

.. Workman

*and*

M/S. NAUNIHAL ELECTROPLATING, I-F/68, N.I.T., FARIDABAD

.. Management

Present :

workman with authorised representative Shri Satish Ahuja.

Shri R. C. Sharma, authorised representative for the management.

## AWARD

Under the provisions of section 10 (1)(c) of Industrial Disputes Act, 1947, the Government of Haryana have,—vide Endorsement No. 4488—93, dated 23rd January, 1992, referred the following dispute between the parties above named for adjudication :—

Whether the termination of services of Smt. Kamla Devi, is legal and justified. If not, to what relief he is entitled ?

2. The matter has been settled between the parties. The workman has been paid an amount of Rs. 10,260 (Rs. Ten Thousand Two Hundred Sixty Only) in cash in full and final settlement of her claim. Statement of worker recorded. No more dispute now survives in this case. An award is passed accordingly.

The 25th January, 1995.

N. L. PRUTHI,

Presiding Officer,  
Industrial Tribunal-cum-Labour Court-I, Faridabad.

Endorsement No. 322, dated the 30th January, 1995.

A copy with three spare copies, is forwarded to the Commissioner and Secretary to Government, Haryana, Labour Department, Chandigarh.

N. L. PRUTHI,  
Presiding Officer,  
Industrial Tribunal-cum-  
Labour Court-I, Faridabad.

The 16th February, 1995

No. 14/13/87-6 Lab./278.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947, (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar, in respect of the dispute between the workman and the management of M/s. M.D. Hafed, Chandigarh, etc. *versus* Shri Maha Singh.

BEFORE SHRI J. D. CHANDNA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, HISAR

Reference No. 163 of 1992

Date of receipt : 4-8-92.

Date of decision : 7-1-93.

SHRI MAHA SINGH, V.P.O. KAFRO, TEHSIL NARNAUND, DISTRICT HISAR

.. Applicant

*versus*

1. M.D. HAFED, S.C.O. 19/7-C, CHANDIGARH.
2. DISTRICT MANAGER, HAFED, KURUKSHETRA.
3. DISTRICT MANAGER, HAFED, JIND.
4. PROJECT MANAGER, HAFED, COTTON SEED AND PROCESSING COMPLEX, RATIA (HISAR).
5. DISTRICT MANAGER, HAFED, HISAR.
6. DISTRICT MANAGER (COTTON), HAFED, SIRSA.
7. INCHARGE, HAFED, SAFIDON, JIND.

.. Respondent-Management

*Present:*

Shri Maha Singh, workman in person.

Shri Raj Singh, for the management.

#### AWARD

In exercise of the powers conferred by clause C of the sub-section 1 of section 10 of the I.D. Act, 1947, the Governor of Haryana, referred the following dispute between Maha Singh and the above mentioned management for adjudication to this Court,—vide Labour Department, letter No. Hgr/30939—48, dated 4th July, 1992:—

Whether the termination of services of Maha Singh is justified and if order? If not, to what relief is he entitled?

2. The case of the petitioner workman is that his service was terminated by the management in an illegal manner.

3. The case was being contested, when the parties arrived at an amicable settlement. The statements of the parties have been recorded today.

4. In view of the statements of the parties recorded today and the copy of letter Ex. M-1, the petitioner has given up his claim of back wages. The management shall take him on duty giving him benefit of continuity of service. The petitioner shall be entitled to full wages from the date of joining the duty. No dispute survives for adjudication. The reference is answered accordingly, with no order as to costs.

J. D. CHANDNA,

Presiding Officer,  
Industrial Tribunal-cum-Labour Court,  
Hisar.

The 7th January, 1993.

Endst. No. 119, dated 22nd January, 1993.

1. A copy is forwarded to the Labour Commissioner, Haryana, Chandigarh for information and necessary action.

2. A copy is forwarded to the Labour Officer, Hisar.

3. Office with two spare copies.

J. D. CHANDNA,

Presiding Officer,  
Industrial Tribunal-cum-Labour Court,  
Hisar.